



Federal Communications Commission
Enforcement Bureau
Region One

Region One Regional Office
9050 Junction Drive
Annapolis Junction, Maryland 20701
(301) 725-1996

field@fcc.gov

January 16, 2024

BY UPS AND FIRST-CLASS MAIL

Phalaine Vital
165 Ivy Street
Newark, New Jersey 07105

**NOTICE OF ILLEGAL
PIRATE RADIO BROADCASTING**

Case Number: EB-FIELDNER-22-00034525

The New York Office of the Federal Communications Commission's (FCC) Enforcement Bureau is investigating a complaint about an unlicensed radio broadcast station operating on frequency 87.9 MHz. On February 18, 2023 and June 26, 2023, agents from the New York Office confirmed by direction finding techniques that radio signals on frequency 87.9 MHz were emanating from the property at 165 Ivy Street, Newark, New Jersey 07105 (Property). Publicly available records identify Phalaine Vital as the owner of the Property.¹ The FCC's records show no license issued for operation of a radio broadcast station on 87.9 MHz at this location.

Radio broadcast stations are not permitted to operate on certain frequencies, including 87.9 MHz, which falls within the 82.0 to 88.0 MHz Channel 6 television band.² Although the FCC's rules create exceptions for certain extremely low-powered devices, our agents have determined that those exceptions do not apply to the transmissions they observed originating from the Property. Accordingly, the station operating on the Property may be violating the Communications Act of 1934, as amended (Act).³

Under section 511(a) of the Act, persons or entities found to willfully and knowingly suffer (*i.e.*, permit) a third party to engage in so-called "pirate radio" broadcasting on their property can face significant financial penalties.⁴ **Accordingly, you are hereby notified and warned that the FCC may issue a fine of up to \$2,316,034 if, following the response period set forth below, we determine that you have**

¹ *Essex County Property Assessment Search Hub*, <https://www.taxdatahub.com/6229fbf0ce4aef911f9de7bc/Essex%20County> (last visited Jan. 16, 2024).

² 47 U.S.C. § 301; 47 CFR § 73.603(a).

³ *See, e.g.*, 47 U.S.C. § 511.

⁴ *Id.* § 511(a).

continued to permit any individual or entity to engage in pirate radio broadcasting from the property that you own or manage.⁵

If you do not respond to this Notice, the FCC may nonetheless determine that, as a legal matter, you have sufficient knowledge of the above-referenced pirate radio activity to support enforcement action against you. Service of this Notice to you or your agent establishes the foundation, along with other evidence, that could lead to significant financial penalties.

You have ten (10) business days from the date of this Notice to respond by providing evidence that you are no longer permitting pirate radio broadcasting to occur at the Property. In addition, we request that you identify the individual(s) engaged in pirate radio broadcasting on the property that you own or manage. Your response should be sent to the address in the letterhead and reference the listed case number. Under the Privacy Act of 1974,⁶ we are informing you that the FCC's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with the FCC's rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

David C. Dombrowski
Regional Director, Region One
FCC Enforcement Bureau

Enclosures:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", March 2005

⁵ See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, WL 8889597 (EB Dec. 22, 2023); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases).

⁶ 5 U.S.C. § 552a(e)(3).